

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Thomas Gary Corscadden,

Case No. 15-cv-0050 (WMW/SER)

Plaintiff,

v.

**ORDER ADOPTING REPORT AND
RECOMMENDATION AS MODIFIED**

Lucinda Jesson, et al.,

Defendants.

This matter is before the Court on the July 14, 2016 Report and Recommendation (“R&R”) of United States Magistrate Steven E. Rau. (Dkt. 47.) No objections to the R&R were filed in the time period permitted. In the absence of timely objections, this Court reviews an R&R for clear error. *See* 1983 Advisory Committee Note to Fed. R. Civ. P. 72(b) (“When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”); *Grinder v. Gammon*, 73 F.3d 793, 795 (8th Cir. 1996).

The R&R recommends denying, without prejudice, Plaintiff Thomas Gary Corscadden’s March 10, 2016 motion for default judgment as premature because (1) Corscadden did not first obtain an entry of default under Federal Rule of Civil Procedure 55(a), and (2) Defendants had not been properly served. The Court finds no clear error on the face of the record with respect to this recommendation. However, approximately one month after the magistrate judge issued the R&R, Corscadden’s

second set of summonses was returned executed. (Dkts. 50, 51.) And on August 11, 2016, Defendants filed a motion to dismiss Corscadden's complaint. (Dkt. 52.) Accordingly, Corscadden's motion for default judgment is now moot. *See King v. Dingle*, Civil No. 08-5922, 2009 WL 2208164, at *2 (D. Minn. July 22, 2009).

Based on the foregoing analysis, the Report and Recommendation of the magistrate judge and all the files, records and proceedings herein, **IT IS HEREBY ORDERED:**

1. The July 14, 2016 Report and Recommendation, (Dkt. 47), is **ADOPTED AS MODIFIED** as set forth herein;
2. Plaintiff's motion for default judgment, (Dkt. 33), is **DENIED AS MOOT**.

Dated: August 23, 2016

s/Wilhelmina M. Wright
Wilhelmina M. Wright
United States District Judge